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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,511	01/16/2001	Takayuki Hisanaka	2309/01158	5640

7590 10/30/2002

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 10/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,511

Applicant(s)

HISANAKA, TAKAYUKI

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1. The finality of Paper #5 has been withdrawn, and an action on the amendment submitted 10/10/02 follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Brecher (4,790,836).

4. Brecher discloses the use of a disposable diaper with a topsheet (6), backsheet (10), a core (8) located there between, a layer containing a skin protective ingredient such as a medicated powder (4), and a water soluble film (2) located on top of the powder (See figure1). Brecher discloses the film layer is dissolved as soon as the infant wets the diaper (column 2, lines 27-30). Therefore the solubility of the film would be promoted at the temperature of the urine it comes in contact to, which is approximately 37 degrees Celsius when leaving the body.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brecher in view of Ehrnsperfer et al. (6,160,200).

7. Brecher discloses the water soluble film can be made of any water soluble material, but does not disclose the specific type of water soluble material. Ehrnsperfer discloses a water soluble layer that is a body contacting layer of a diaper is polyvinyl alcohol. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the water soluble material of Brecher, be the polyvinyl alcohol of Ehrnsperfer, in order to promote increased strength, breathability, opacity and rate of dissolution. (see Ehrnsperfer column 11)

8. Claims 3-6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brecher in view of Schulte et al. (6,166,285).

9. With respect to Claim 3: Brecher discloses the use of medicated powder as a skin protective ingredient and recognizes that lotion or cream is commonly used in conjunction with diapers, but does not disclose that the skin protective ingredient is formed of a compound capable of forming an oily film on the skin of the wearer. Schulte discloses the use of a skin care composition that is placed on the topsheet of an absorbent article so that during use a portion of the composition will be transferred to the skin of a wearer, and the composition is in a variety of forms such as powders, lotions, creams or ointments (column 23, line 64 to column 24, line 13). Lotions creams or ointments are fully capable of forming an oily film on the skin of the wearer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the medicated powder of Brecher with the skin care composition of Schulte, in

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order to provide a controlled application of the skin-protecting ingredient, to allow transfer of optimal levels of composition to the skin to maintain and/or improve skin health. (See Schulte column 24).

10. With respect to Claim 4: See Schulte, column 25, lines 40-45.
11. With respect to Claim 5: See Schulte, column 27, lines 14-24 and column 32, lines 42-56.
12. With respect to Claim 7: Brecher also fails to disclose the use of leak-preventive cuffs where the layer of skin protective ingredient and the water soluble layer are disposed on the cuffs. Schulte discloses the use of leg cuffs (62), where the skin care composition are disposed on the cuffs as well as the topsheet (See Figure 1 and column 11, lines 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the diaper of Brecher include the cuffs of Schulte, where the cuffs also included the layer with skin protective ingredient and the water soluble layer of Brecher, in order to prevent leakage out sides of the article, and so that the skin protecting ingredient is readably transferable to the wearer's skin during use. (see Schulte, abstract and column 8).

Response to Amendment

13. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

October 24, 2002



Aaron J. Lewis
Primary Examiner